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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MADISON REAL ESTATE GROUP,
LLC, a Wyoming limited liability
company, RICHARD AMES HIGGINS,
BRANDON S. HIGGINS, and ALLAN D.
CHRISTENSEN,

Defendants.

**MEMORANDUM IN SUPPORT OF EX
PARTE MOTION TO LIFT STAY FOR
A PARTICULAR PURPOSE *NUNC***

PRO TUNC

**(Riviera and Coronado Hills
Apartments)**

Case No. 2:08cv00243
Judge Clark Waddoups

Plaintiff Securities and Exchange Commission (the “Commission”) submits this Memorandum in Support of Motion to Lift Stay for a Particular Purpose *Nunc Pro Tunc*. More specifically, the Commission seeks an order lifting this Court’s Second Order Granting Ex Parte Motion for Stay of Litigation (the “Stay”) *nunc pro tunc* to December 1, 2008, for the particular purpose of allowing the commencement of foreclosure proceedings against the Riviera Apartments located at 1919 34th Street, Lubbock, Texas (hereafter “Riviera”) and the Coronado Hills Apartments located at 801 Marcy Drive, Big

Springs, Texas (hereafter “Coronado Hills”). In making the motion, the Commission represents as follows:

ARGUMENT

In connection with the Complaint lodged by the Commission against Madison Real Estate Group, LLC, Richard Ames Higgins, Brandon S. Higgins and Allan D. Christensen (the “Defendants”), this Court entered its Second Order Granting Ex Parte Motion for Stay of Litigation or the “Stay.” Generally speaking, the Stay prohibits any action related to the Defendants, certain limited partnerships established by the Defendants, and property held by the Defendants and the limited Partnerships. Two of the properties originally subject to the Stay were Riviera and Coronado Hills.

Filed contemporaneously with this motion is a motion prepared by the Receiver seeking, among other things, authorization to relinquish the Receivership’s real property interests in Riviera and Coronado Hills. Should the Court grant the Receiver’s motion to relinquish, upon receipt of the \$75,000.00 payment described below, the Receiver would take immediate steps to formally relinquish the Receivership’s real property interests in Riviera and Coronado Hills. Once abandoned, the properties would be subject to those individuals and entities holding interests in them prior to the Receiver’s appointment on March 28, 2008. So long as their efforts to foreclose do not include the pursuit of claims against individuals, entities or properties protected by the Stay, the individuals and

entities holding interests in a relinquished Riviera and/or Coronado Hills are entitled to relief from the Stay allowing them to take action to protect their interests in the properties without concern that their conduct is in violation of the Stay.

More specifically, Jeff Rodriguez and Regina Rodriguez hold two notes secured by Riviera and Coronado Hills respectively. Upon information and belief, those notes are currently in default. The Receiver, unable to locate a purchaser for either property that would be of real benefit to the Receivership, has negotiated an agreement with Mr. and Mrs. Rodriguez that would provide some benefit to the Receivership while also delivering control of Riviera and Coronado Hills to Mr. and Mrs. Rodriguez. In part, the agreement provides the Receivership with control over certain existing funds already on account which are related to the properties and obligates Mr. and Mrs. Rodriguez to pay the Receivership an additional \$75,000.00 on or before the fifth business day after the entry of an order allowing the Receiver to relinquish the Receiver's interest in Riviera and Coronado Hills.

Pursuant to the agreement and in order to allow the commencement of the foreclosure on the properties without the risk that such action would violate the Stay, the Commission brings the present motion seeking an order lifting the stay for the particular purpose of allowing Mr. and Mrs. Rodriguez to proceed with foreclosure proceedings against Riviera and Coronado Hills. The Commission seeks entry of the order *nunc pro*

tunc to December 1, 2008, so as to accommodate the Rodriguezes' need to initiate and complete the foreclosure process as soon as possible. It should be clear, however, that in order to protect the Receivership and pursuant to the parties' agreement the order requested from this Court should prohibit Mr. and Mrs. Rodriguez from completing the foreclosure process until and unless the \$75,000.00 payment referenced above has been made to and received by the Receivership.

CONCLUSION

The Commission respectfully requests that the Court grant the present motion and enter an order lifting the Stay as requested. A proposed Order is submitted herewith for the Court's review and consideration.

RESPECTFULLY SUBMITTED this 15th day of December 2008.

SECURITIES & EXCHANGE COMMISSION

/s/ Thomas M. Melton

By: _____
Thomas M. Melton

Certificate of Service

I hereby certify that on 15th day of December 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to the following:

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and I hereby certify that I have electronically mailed the foregoing documents to the following non-CM/ECF participants:

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/s/ Thomas M. Melton
